

Kapke, Kara

From: Kapke, Kara
Sent: Monday, June 13, 2022 4:16 PM
To: Christopher Geddis; Richer, Kristen
Cc: Adam Slater; David J. Stanoch; nmigliaccio@classlawdc.com; Mark Patronella; Geman, Rachel; Lee, Nicholas W.
Subject: RE: Stipulation of Dismissal of Silberman's Claims Against CVS
Attachments: [EXTERNAL]RE: Dismissal of CVS in MMMC

Chris & all,

Thanks for your response. We've spent some time since trying to understand where this is coming from and the history here.

The fill you are referencing is for 18-days of valsartan manufactured by Hetero in July 2018, and nowhere in the Medical Monitoring Complaint does Zehr plead that she is asserting claims against CVS. CVS never responded with a DFS to Zehr's PFS because there was no notice that Zehr was targeting CVS as a defendant. Ms. Zehr produced records of this 18-day fill and discussed it at her deposition on May 20, 2021, and yet Plaintiffs did not name Hetero or CVS in their amended complaint, filed six months later on November 1, 2021.

In prior email exchanges regarding dismissal of CVS, Plaintiffs previously noted that you would not agree because of (1) Silberman, who has now dismissed her claims against CVS, and (2) Plaintiffs' then-pending objection to the dismissal of the negligence claims against CVS, now resolved in CVS's favor. At no time did you or your team raise Zehr's 18 days of Hetero valsartan as an obstacle or a basis for keeping CVS in this case. (See attached.) For Plaintiffs to take this position now, after fact and expert discovery, after multiple amendments to the pleadings, after class certification briefing has concluded, and after several emails from us to Plaintiffs noting that Silberman was the sole class representative with medical monitoring claims against CVS is procedurally improper and prejudicial to CVS.

We think it may be helpful to schedule a call to discuss here, and hope that Plaintiffs will reconsider, so that we can avoid troubling the Court with this issue. Otherwise, we intend to seek relief from the Court at the next case management conference.

Please let us know if you are available to discuss.

Kara M. Kapke | Partner

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From: Christopher Geddis <CGeddis@mazieslater.com>
Sent: Wednesday, June 8, 2022 6:30 PM
To: Richer, Kristen <Kristen.Richer@btlaw.com>; Kapke, Kara <Kara.Kapke@btlaw.com>
Cc: Adam Slater <ASlater@mazieslater.com>; David J. Stanoch <d.stanoch@kanner-law.com>; nmigliaccio@classlawdc.com; Mark Patronella <mpatronella@classlawdc.com>; Geman, Rachel <rgeman@lchb.com>;

Lee, Nicholas W. <nlee@lchb.com>

Subject: [EXTERNAL]RE: Stipulation of Dismissal of Silberman's Claims Against CVS

Hi Kristen,

Medical monitoring class representative Sara Zehr received Hetero's valsartan (NDC 31722-747-90) from CVS on July 17, 2018, so Plaintiffs will not be able to dismiss CVS from the medical monitoring master complaint.

Best,
Chris

From: Richer, Kristen <Kristen.Richer@btlaw.com>

Sent: Tuesday, June 7, 2022 1:39 PM

To: Christopher Geddis <CGeddis@mazieslater.com>; Kapke, Kara <Kara.Kapke@btlaw.com>

Cc: Adam Slater <ASlater@mazieslater.com>

Subject: RE: Stipulation of Dismissal of Silberman's Claims Against CVS

Thanks, Chris.

Kristen Richer | Partner

Direct: (310) 284-3896 | Mobile: (408) 515-5663

Los Angeles, CA



From: Christopher Geddis <CGeddis@mazieslater.com>

Sent: Tuesday, June 7, 2022 6:37 AM

To: Kapke, Kara <Kara.Kapke@btlaw.com>; Richer, Kristen <Kristen.Richer@btlaw.com>

Cc: Adam Slater <ASlater@mazieslater.com>

Subject: [EXTERNAL]RE: Stipulation of Dismissal of Silberman's Claims Against CVS

I don't think we need a call either. I'll reach out to the med mon team and get back to you soon though.

From: Kapke, Kara <Kara.Kapke@btlaw.com>

Sent: Monday, June 6, 2022 7:11 PM

To: Christopher Geddis <CGeddis@mazieslater.com>; Richer, Kristen <Kristen.Richer@btlaw.com>

Cc: Adam Slater <ASlater@mazieslater.com>

Subject: RE: Stipulation of Dismissal of Silberman's Claims Against CVS

Thanks, Chris. On second thought -- we may be able to resolve our question via email.

Regarding the dismissal of Silberman: The draft you sent us is acceptable. Please go ahead and file.

We wanted to discuss next steps as to CVS once that's on file. As you know from our position statement and from prior emails to Plaintiffs' leadership, via Dave Stanoch, Silberman was the last medical monitoring class representative with any claims against CVS. Now that Judge Kugler has overruled Plaintiffs' objections to the dismissal of the negligence claims and Texas implied warranty claims (meaning Sylvia Cotton has no claims against CVS), CVS should be dismissed without prejudice from the medical monitoring complaint as a whole as well. We'd like to move that process forward. We're happy to prepare a draft to that effect, but wanted to confirm (1) that

Plaintiffs agree to the dismissal without prejudice of CVS from the MM complaint, and (2) who should sign on Plaintiffs' behalf. Is it the same group that is signing Ms. Silberman's dismissal?

Let us know, or let us know if you'd rather hop on a call tomorrow to discuss next steps, and we'll call you around 12:30 Pacific/3:30 Eastern.

Kara M. Kapke | Partner

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From: Christopher Geddis <CGeddis@mazieslater.com>
Sent: Monday, June 6, 2022 7:00 PM
To: Richer, Kristen <Kristen.Richer@btlaw.com>
Cc: Adam Slater <ASlater@mazieslater.com>; Kapke, Kara <Kara.Kapke@btlaw.com>
Subject: [EXTERNAL]RE: Stipulation of Dismissal of Silberman's Claims Against CVS

Hi Kristin- My schedule is flexible after 3pm ET if sometime after that works for you.

From: Richer, Kristen <Kristen.Richer@btlaw.com>
Sent: Monday, June 6, 2022 6:52 PM
To: Christopher Geddis <CGeddis@mazieslater.com>
Cc: Adam Slater <ASlater@mazieslater.com>; Kapke, Kara <Kara.Kapke@btlaw.com>
Subject: RE: Stipulation of Dismissal of Silberman's Claims Against CVS

Chris and Adam,

Hope you both had a nice weekend. Do either or both of you have 5 minutes tomorrow for a quick call on this?

Thanks much,

Kristen Richer | Partner

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Los Angeles, CA



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From: Christopher Geddis <CGeddis@mazieslater.com>
Sent: Thursday, June 2, 2022 2:23 PM
To: Richer, Kristen <Kristen.Richer@btlaw.com>
Cc: Adam Slater <ASlater@mazieslater.com>
Subject: [EXTERNAL]Stipulation of Dismissal of Silberman's Claims Against CVS

Hi Kristin,

Please see attached for a proposed stipulation of dismissal of Silberman's claims against CVS. Please confirm that it is acceptable.

Thanks,
Chris

Christopher J. Geddis
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